

AMENDED IN ASSEMBLY SEPTEMBER 9, 2003

AMENDED IN ASSEMBLY SEPTEMBER 4, 2003

AMENDED IN ASSEMBLY AUGUST 18, 2003

AMENDED IN ASSEMBLY JULY 8, 2003

AMENDED IN SENATE APRIL 30, 2003

AMENDED IN SENATE MARCH 26, 2003

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**SENATE BILL**

**No. 631**

**Introduced by Senator McPherson**

(Principal coauthor: Assembly Member Matthews)

February 21, 2003

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An act to amend Section 13903 of the Government Code, and to ~~amend Sections 1202.4, 1202.45, 1214, and 2085.5 of, and to add~~ *amend Sections 1202.45 and 1214 of, to amend, repeal, and add Sections 1202.4 and 2085.5 of, and to add* Section 1202.44 to, the Penal Code, relating to restitution, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 631, as amended, McPherson. Restitution.

(1) Under existing law, in every case where a person is convicted of a crime, the court is required to impose a restitution fine, unless it finds compelling and extraordinary reasons for not doing so, and states those reasons on the record. Existing law also provides for restitution for economic losses to victims of crime directly from any defendant convicted of the crime, as specified.

Under existing law, a victim restitution order or restitution fine is enforceable as a civil judgment, and continues to be collectible after probation and parole has terminated. Existing law requires a defendant to prepare a disclosure of assets, income and liabilities as of the date of arrest for the crime for which restitution may be ordered, and requires the disclosure be made available to the victim, as specified.

This bill would require a defendant who has an unpaid balance on a restitution order or fine 120 days prior to the time of his or her release from probation or the conclusion of his or her conditional sentence to prepare and file a specified signed financial disclosure statement on a specified form with a court clerk not later than 90 days prior to release from probation or the conclusion of a conditional sentence. Willfully making false material statements on this disclosure would be a misdemeanor, unless punishable as perjury, or otherwise subject to greater penalty. This bill would require that both this disclosure statement and the initial disclosure statement be made available to the victim and to the California Victim Compensation and Government Claims Board.

By making willfully false material statements on this newly required disclosure a crime, this bill would impose a state-mandated local program.

(2) Existing law provides that restitution is to be made to the Restitution Fund to the extent that the victim of the crime has received assistance from the Victim Compensation and Government Claims Board. Existing law requires that a victim in a criminal case be notified of sentencing proceedings, of the right to civil recovery, and of the opportunity for compensation from the Restitution Fund. However, existing law does not explicitly address the circumstance in which an order is made for restitution to the Victim Compensation and Government Claims Board.

This bill would require a court clerk to notify the Victim Compensation and Government Claims Board within 90 days of an order requiring a defendant to pay restitution to the board due to the victim receiving compensation from the fund by mailing a copy of the order to the board, and would allow this to be done periodically by bulk mail or electronic mail.

(3) Existing law makes the Director of General Services the chairman of the Victim Compensation and Government Claims Board.

This bill would instead make the Secretary of the State and Consumer Services Agency the chair of that board.



(4) Under existing law, a restitution fine is deposited into the Restitution Fund for expenditure by the Victim Compensation and Government Claims Board as awards to victims of crime, as specified. Existing law separately defines “victims” for purposes of the provisions authorizing adult restitution fines and orders, and includes in that definition “derivative victims,” as specified.

This bill would delete the language that adds “derivative victims” to the definition of “victims” for purposes of adult restitution fines and orders, and instead add specified persons who have sustained economic loss as the result of a crime, and persons eligible for awards to victims of crime to those deemed “victims” for these purposes.

(5) For cases in which a sentence is imposed that includes a period of parole, existing law provides that an additional restitution fine shall be ordered, in the same amount as the primary restitution fine, to be suspended unless the person’s parole is revoked. Existing law does not provide for a similar suspended fine for probationers.

This bill would specify that parole revocation restitution fines are to be deposited in the Restitution Fund in the State Treasury. It would also provide for a probation revocation restitution fine, also in the same amount as the primary restitution fine, to be assessed by the court and to become effective when a person’s probation is revoked. This probation revocation restitution fine could not be waived or reduced by the court absent compelling and extraordinary reasons stated on the record, and would be deposited in the Restitution Fund.

(6) Existing law provides that a fine or restitution fine may be enforced in the manner of civil judgments generally, specifies that the Victims Compensation and Government Claims Board may collect restitution fine balances after the termination of a term of probation or parole, authorizes disclosure of specified information to the board to assist the board in collecting restitution fines, and exempts restitution fines from the statutes limiting the time permitted for enforcing judgments.

Existing law establishes diversion programs in categories of cases involving drug and other charges that, upon successful completion, lead to the dismissal of criminal charges. For most of these categories, the court is required to impose a diversion restitution fee on the defendant, as specified.

This bill would specify that a diversion restitution fee or a restitution fine imposed upon parole revocation or probation revocation may also be enforced in the manner of civil judgments generally. It would



provide that parole revocation restitution fines, probation revocation restitution fines, and diversion restitution fees are also subject to collection by the board after the termination of parole or probation or the completion of diversion, and that the same disclosures authorized to assist the board in collecting restitution fines may be given to the board to assist in collecting these parole and probation revocation restitution fines and diversion restitution fees. This bill would also exempt diversion restitution fees from the time limitations on enforcing judgments.

(7) Under existing law, the former State Board of Control has been renamed the California Victim Compensation and Government Claims Board.

This bill would correct obsolete references to the State Board of Control and correct a related cross reference.

(8) Existing law requires the Director of Corrections, in any case in which a prisoner owes a restitution order or a restitution fine assessed in criminal court, to deduct specified amounts from the wages and trust account deposits of the prisoner unless prohibited by federal law, and to transfer those amounts to the State Board of Control for direct payment to the victim or deposit in the Restitution Fund. Existing law also authorizes the Director of Corrections to collect from a parolee any moneys owing on a restitution order or a restitution fine assessed in adult court unless prohibited by federal law, and requires the director to transfer those amounts to the State Board of Control for direct payment to the victim or deposit in the Restitution Fund.

This bill would make these same provisions applicable to restitution orders and restitution fines assessed in juvenile court for persons under the jurisdiction of the Director of Corrections.

(9) Some of the existing provisions of law relating to the collection of restitution addressed in this bill became operative by their own terms on January 1, 2000, unless an extension was granted on a county-by-county basis by the Judicial Council, as specified. By those same terms, these extensions could last no longer than January 1, 2002.

This bill would repeal this obsolete language authorizing a delay in the operation of these provisions.

(10) *This bill would incorporate additional changes in Sections 1202.4 and 2085.5 of the Penal Code as proposed by AB 1760, contingent on the prior enactment of that bill.*

(11) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the



state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

~~(11)~~

(12) Existing provisions of the Government Code continuously appropriate money in the Restitution Fund to the California Victim Compensation and Government Claims Board for expenditure on indemnifying victims of crime, as specified. Because this bill would increase the amount of money deposited into this fund, it would make an appropriation.

~~(12)~~

(13) This bill would declare that it is to take effect immediately as an urgency statute.

Vote: <sup>2</sup>/<sub>3</sub>. Appropriation: yes. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 13903 of the Government Code is  
2 amended to read:

3 13903. The Secretary of the State and Consumer Services  
4 Agency shall serve as chair of the board.

5 SEC. 2. Section 1202.4 of the Penal Code is amended to read:

6 1202.4. (a) (1) It is the intent of the Legislature that a victim  
7 of crime who incurs any economic loss as a result of the  
8 commission of a crime shall receive restitution directly from any  
9 defendant convicted of that crime.

10 (2) Upon a person being convicted of any crime in the State of  
11 California, the court shall order the defendant to pay a fine in the  
12 form of a penalty assessment in accordance with Section 1464.

13 (3) The court, in addition to any other penalty provided or  
14 imposed under the law, shall order the defendant to pay both of the  
15 following:

16 (A) A restitution fine in accordance with subdivision (b).

17 (B) Restitution to the victim or victims, if any, in accordance  
18 with subdivision (f), which shall be enforceable as if the order  
19 were a civil judgment.

20 (b) In every case where a person is convicted of a crime, the  
21 court shall impose a separate and additional restitution fine, unless

1 it finds compelling and extraordinary reasons for not doing so, and  
2 states those reasons on the record.

3 (1) The restitution fine shall be set at the discretion of the court  
4 and commensurate with the seriousness of the offense, but shall  
5 not be less than two hundred dollars (\$200), and not more than ten  
6 thousand dollars (\$10,000), if the person is convicted of a felony,  
7 and shall not be less than one hundred dollars (\$100), and not more  
8 than one thousand dollars (\$1,000), if the person is convicted of  
9 a misdemeanor.

10 (2) In setting a felony restitution fine, the court may determine  
11 the amount of the fine as the product of two hundred dollars (\$200)  
12 multiplied by the number of years of imprisonment the defendant  
13 is ordered to serve, multiplied by the number of felony counts of  
14 which the defendant is convicted.

15 (c) The court shall impose the restitution fine unless it finds  
16 compelling and extraordinary reasons for not doing so, and states  
17 those reasons on the record. A defendant's inability to pay shall not  
18 be considered a compelling and extraordinary reason not to impose  
19 a restitution fine. Inability to pay may be considered only in  
20 increasing the amount of the restitution fine in excess of the  
21 two-hundred-dollar (\$200) or one-hundred-dollar (\$100)  
22 minimum.

23 (d) In setting the amount of the fine pursuant to subdivision (b)  
24 in excess of the two-hundred-dollar (\$200) or one-hundred-dollar  
25 (\$100) minimum, the court shall consider any relevant factors  
26 including, but not limited to, the defendant's inability to pay, the  
27 seriousness and gravity of the offense and the circumstances of its  
28 commission, any economic gain derived by the defendant as a  
29 result of the crime, the extent to which any other person suffered  
30 any losses as a result of the crime, and the number of victims  
31 involved in the crime. Those losses may include pecuniary losses  
32 to the victim or his or her dependents as well as intangible losses,  
33 such as psychological harm caused by the crime. Consideration of  
34 a defendant's inability to pay may include his or her future earning  
35 capacity. A defendant shall bear the burden of demonstrating his  
36 or her inability to pay. Express findings by the court as to the  
37 factors bearing on the amount of the fine shall not be required. A  
38 separate hearing for the fine shall not be required.



1 (e) The restitution fine shall not be subject to penalty  
2 assessments as provided in Section 1464, and shall be deposited in  
3 the Restitution Fund in the State Treasury.

4 (f) In every case in which a victim has suffered economic loss  
5 as a result of the defendant's conduct, the court shall require that  
6 the defendant make restitution to the victim or victims in an  
7 amount established by court order, based on the amount of loss  
8 claimed by the victim or victims or any other showing to the court.  
9 If the amount of loss cannot be ascertained at the time of  
10 sentencing, the restitution order shall include a provision that the  
11 amount shall be determined at the direction of the court. The court  
12 shall order full restitution unless it finds compelling and  
13 extraordinary reasons for not doing so, and states them on the  
14 record.

15 (1) The defendant has the right to a hearing before a judge to  
16 dispute the determination of the amount of restitution. The court  
17 may modify the amount, on its own motion or on the motion of the  
18 district attorney, the victim or victims, or the defendant. If a  
19 motion is made for modification of a restitution order, the victim  
20 shall be notified of that motion at least 10 days prior to the  
21 proceeding held to decide the motion.

22 (2) Determination of the amount of restitution ordered  
23 pursuant to this subdivision shall not be affected by the  
24 indemnification or subrogation rights of any third party.  
25 Restitution ordered pursuant to this subdivision shall be ordered  
26 to be deposited to the Restitution Fund to the extent that the victim,  
27 as defined in subdivision (k), has received assistance from the  
28 Victim Compensation Program pursuant to Chapter 5  
29 (commencing with Section 13950) of Part 4 of Division 3 of Title  
30 2 of the Government Code.

31 (3) To the extent possible, the restitution order shall be  
32 prepared by the sentencing court, shall identify each victim and  
33 each loss to which it pertains, and shall be of a dollar amount that  
34 is sufficient to fully reimburse the victim or victims for every  
35 determined economic loss incurred as the result of the defendant's  
36 criminal conduct, including, but not limited to, all of the  
37 following:

38 (A) Full or partial payment for the value of stolen or damaged  
39 property. The value of stolen or damaged property shall be the



1 replacement cost of like property, or the actual cost of repairing the  
2 property when repair is possible.

3 (B) Medical expenses.

4 (C) Mental health counseling expenses.

5 (D) Wages or profits lost due to injury incurred by the victim,  
6 and if the victim is a minor, wages or profits lost by the minor's  
7 parent, parents, guardian, or guardians, while caring for the  
8 injured minor. Lost wages shall include any commission income  
9 as well as any base wages. Commission income shall be  
10 established by evidence of commission income during the  
11 12-month period prior to the date of the crime for which restitution  
12 is being ordered, unless good cause for a shorter time period is  
13 shown.

14 (E) Wages or profits lost by the victim, and if the victim is a  
15 minor, wages or profits lost by the minor's parent, parents,  
16 guardian, or guardians, due to time spent as a witness or in assisting  
17 the police or prosecution. Lost wages shall include any  
18 commission income as well as any base wages. Commission  
19 income shall be established by evidence of commission income  
20 during the 12-month period prior to the date of the crime for which  
21 restitution is being ordered, unless good cause for a shorter time  
22 period is shown.

23 (F) Noneconomic losses, including, but not limited to,  
24 psychological harm, for felony violations of Section 288.

25 (G) Interest, at the rate of 10 percent per annum, that accrues  
26 as of the date of sentencing or loss, as determined by the court.

27 (H) Actual and reasonable attorney's fees and other costs of  
28 collection accrued by a private entity on behalf of the victim.

29 (I) Expenses incurred by an adult victim in relocating away  
30 from the defendant, including, but not limited to, deposits for  
31 utilities and telephone service, deposits for rental housing,  
32 temporary lodging and food expenses, clothing, and personal  
33 items. Expenses incurred pursuant to this section shall be verified  
34 by law enforcement to be necessary for the personal safety of the  
35 victim or by a mental health treatment provider to be necessary for  
36 the emotional well-being of the victim.

37 (J) Expenses to install or increase residential security incurred  
38 related to a crime, as defined in subdivision (c) of Section 667.5,  
39 including, but not limited to, a home security device or system, or  
40 replacing or increasing the number of locks.





1 (K) Expenses to retrofit a residence or vehicle, or both, to make  
2 the residence accessible to or the vehicle operational by the victim,  
3 if the victim is permanently disabled, whether the disability is  
4 partial or total, as a direct result of the crime.

5 (4) (A) If, as a result of the defendant's conduct, the  
6 Restitution Fund has provided assistance to or on behalf of a victim  
7 or derivative victim pursuant to Chapter 5 (commencing with  
8 Section 13950) of Part 4 of Division 3 of Title 2 of the Government  
9 Code, the amount of assistance provided shall be presumed to be  
10 a direct result of the defendant's criminal conduct and shall be  
11 included in the amount of the restitution ordered.

12 (B) The amount of assistance provided by the Restitution Fund  
13 shall be established by copies of bills submitted to the California  
14 Victim Compensation and Government Claims Board reflecting  
15 the amount paid by the board and whether the services for which  
16 payment was made were for medical or dental expenses, funeral  
17 or burial expenses, mental health counseling, wage or support  
18 losses, or rehabilitation. Certified copies of these bills provided by  
19 the board and redacted to protect the privacy and safety of the  
20 victim or any legal privilege, together with a statement made under  
21 penalty of perjury by the custodian of records that those bills were  
22 submitted to and were paid by the board, shall be sufficient to meet  
23 this requirement.

24 (C) If the defendant offers evidence to rebut the presumption  
25 established by this paragraph, the court may release additional  
26 information contained in the records of the board to the defendant  
27 only after reviewing that information in camera and finding that  
28 the information is necessary for the defendant to dispute the  
29 amount of the restitution order.

30 (5) Except as provided in paragraph (6), in any case in which  
31 an order may be entered pursuant to this subdivision, the defendant  
32 shall prepare and file a disclosure identifying all assets, income,  
33 and liabilities in which the defendant held or controlled a present  
34 or future interest as of the date of the defendant's arrest for the  
35 crime for which restitution may be ordered. The financial  
36 disclosure statements shall be made available to the victim and the  
37 board pursuant to Section 1214. The disclosure shall be signed by  
38 the defendant upon a form approved or adopted by the Judicial  
39 Council for the purpose of facilitating the disclosure. Any  
40 defendant who willfully states as true any material matter that he

1 or she knows to be false on the disclosure required by this  
2 subdivision is guilty of a misdemeanor, unless this conduct is  
3 punishable as perjury or another provision of law provides for a  
4 greater penalty.

5 (6) A defendant who fails to file the financial disclosure  
6 required in paragraph (5), but who has filed a financial affidavit or  
7 financial information pursuant to subdivision (c) of Section 987,  
8 shall be deemed to have waived the confidentiality of that affidavit  
9 or financial information as to a victim in whose favor the order of  
10 restitution is entered pursuant to subdivision (f). The affidavit or  
11 information shall serve in lieu of the financial disclosure required  
12 in paragraph (5), and paragraphs (7) to (10), inclusive, shall not  
13 apply.

14 (7) Except as provided in paragraph (6), the defendant shall file  
15 the disclosure with the clerk of the court no later than the date set  
16 for the defendant's sentencing, unless otherwise directed by the  
17 court. The disclosure may be inspected or copied as provided by  
18 subdivision (b), (c), or (d) of Section 1203.05.

19 (8) In its discretion, the court may relieve the defendant of the  
20 duty under paragraph (7) of filing with the clerk by requiring that  
21 the defendant's disclosure be submitted as an attachment to, and  
22 be available to, those authorized to receive the following:

23 (A) Any report submitted pursuant to subparagraph (C) of  
24 paragraph (2) of subdivision (b) of Section 1203 or subdivision (g)  
25 of Section 1203.

26 (B) Any stipulation submitted pursuant to paragraph (4) of  
27 subdivision (b) of Section 1203.

28 (C) Any report by the probation officer, or any information  
29 submitted by the defendant applying for a conditional sentence  
30 pursuant to subdivision (d) of Section 1203.

31 (9) The court may consider a defendant's unreasonable failure  
32 to make a complete disclosure pursuant to paragraph (5) as any of  
33 the following:

34 (A) A circumstance in aggravation of the crime in imposing a  
35 term under subdivision (b) of Section 1170.

36 (B) A factor indicating that the interests of justice would not be  
37 served by admitting the defendant to probation under Section  
38 1203.



1 (C) A factor indicating that the interests of justice would not be  
2 served by conditionally sentencing the defendant under Section  
3 1203.

4 (D) A factor indicating that the interests of justice would not be  
5 served by imposing less than the maximum fine and sentence fixed  
6 by law for the case.

7 (10) A defendant's failure or refusal to make the required  
8 disclosure pursuant to paragraph (5) shall not delay entry of an  
9 order of restitution or pronouncement of sentence. In appropriate  
10 cases, the court may do any of the following:

11 (A) Require the defendant to be examined by the district  
12 attorney pursuant to subdivision (h).

13 (B) If sentencing the defendant under Section 1170, provide  
14 that the victim shall receive a copy of the portion of the probation  
15 report filed pursuant to Section 1203.10 concerning the  
16 defendant's employment, occupation, finances, and liabilities.

17 (C) If sentencing the defendant under Section 1203, set a date  
18 and place for submission of the disclosure required by paragraph  
19 (5) as a condition of probation or suspended sentence.

20 (11) If a defendant has any remaining unpaid balance on a  
21 restitution order or fine 120 days prior to his or her scheduled  
22 release from probation or 120 days prior to his or her completion  
23 of a conditional sentence, the defendant shall prepare and file a  
24 new and updated financial disclosure identifying all assets,  
25 income, and liabilities in which the defendant holds or controls or  
26 has held or controlled a present or future interest during the  
27 defendant's period of probation or conditional sentence. The  
28 financial disclosure shall be made available to the victim and the  
29 board pursuant to Section 1214. The disclosure shall be signed and  
30 prepared by the defendant on the same form as described in  
31 paragraph (5). Any defendant who willfully states as true any  
32 material matter that he or she knows to be false on the disclosure  
33 required by this subdivision is guilty of a misdemeanor, unless this  
34 conduct is punishable as perjury or another provision of law  
35 provides for a greater penalty. The financial disclosure required by  
36 this paragraph shall be filed with the clerk of the court no later than  
37 90 days prior to the defendant's scheduled release from probation  
38 or completion of the defendant's conditional sentence.

39 (g) The court shall order full restitution unless it finds  
40 compelling and extraordinary reasons for not doing so, and states

1 those reasons on the record. A defendant's inability to pay shall not  
2 be considered a compelling and extraordinary reason not to impose  
3 a restitution order, nor shall inability to pay be a consideration in  
4 determining the amount of a restitution order.

5 (h) The district attorney may request an order of examination  
6 pursuant to the procedures specified in Article 2 (commencing  
7 with Section 708.110) of Chapter 6 of Division 2 of Title 9 of Part  
8 2 of the Code of Civil Procedure, in order to determine the  
9 defendant's financial assets for purposes of collecting on the  
10 restitution order.

11 (i) A restitution order imposed pursuant to subdivision (f) shall  
12 be enforceable as if the order were a civil judgment.

13 (j) The making of a restitution order pursuant to subdivision (f)  
14 shall not affect the right of a victim to recovery from the  
15 Restitution Fund as otherwise provided by law, except to the extent  
16 that restitution is actually collected pursuant to the order.  
17 Restitution collected pursuant to this subdivision shall be credited  
18 to any other judgments for the same losses obtained against the  
19 defendant arising out of the crime for which the defendant was  
20 convicted.

21 (k) For purposes of this section, "victim" shall include all of  
22 the following:

23 (1) The immediate surviving family of the actual victim.

24 (2) Any corporation, business trust, estate, trust, partnership,  
25 association, joint venture, government, governmental  
26 subdivision, agency, or instrumentality, or any other legal or  
27 commercial entity when that entity is a direct victim of a crime.

28 (3) Any person who has sustained economic loss as the result  
29 of a crime and who satisfies any of the following conditions:

30 (A) At the time of the crime was the parent, grandparent,  
31 sibling, spouse, child, or grandchild of the victim.

32 (B) At the time of the crime was living in the household of the  
33 victim.

34 (C) At the time of the crime was a person who had previously  
35 lived in the household of the victim for a period of not less than two  
36 years in a relationship substantially similar to a relationship listed  
37 in subparagraph (A).

38 (D) Is another family member of the victim, including, but not  
39 limited to, the victim's fiancé or fiancée, and who witnessed the  
40 crime.



1 (E) Is the primary caretaker of a minor victim.

2 (4) Any person who is eligible to receive assistance from the  
3 Restitution Fund pursuant to Chapter 5 (commencing with Section  
4 13950) of Part 4 of Division 3 of Title 2 of the Government Code.

5 (I) At its discretion, the board of supervisors of any county may  
6 impose a fee to cover the actual administrative cost of collecting  
7 the restitution fine, not to exceed 10 percent of the amount ordered  
8 to be paid, to be added to the restitution fine and included in the  
9 order of the court, the proceeds of which shall be deposited in the  
10 general fund of the county.

11 (m) In every case in which the defendant is granted probation,  
12 the court shall make the payment of restitution fines and orders  
13 imposed pursuant to this section a condition of probation. Any  
14 portion of a restitution order that remains unsatisfied after a  
15 defendant is no longer on probation shall continue to be  
16 enforceable by a victim pursuant to Section 1214 until the  
17 obligation is satisfied.

18 (n) If the court finds and states on the record compelling and  
19 extraordinary reasons why a restitution fine or full restitution order  
20 should not be required, the court shall order, as a condition of  
21 probation, that the defendant perform specified community  
22 service, unless it finds and states on the record compelling and  
23 extraordinary reasons not to require community service in addition  
24 to the finding that restitution should not be required. Upon  
25 revocation of probation, the court shall impose restitution pursuant  
26 to this section.

27 (o) The provisions of Section 13963 of the Government Code  
28 shall apply to restitution imposed pursuant to this section.

29 (p) The court clerk shall notify the California Victim  
30 Compensation and Government Claims Board within 90 days of  
31 an order of restitution being imposed if the defendant is ordered  
32 to pay restitution to the board due to the victim receiving  
33 compensation from the Restitution Fund. Notification shall be  
34 accomplished by mailing a copy of the court order to the board,  
35 which may be done periodically by bulk mail or electronic mail.

36 *SEC. 2.1. Section 1202.4 of the Penal Code is amended to*  
37 *read:*

38 1202.4. (a) (1) It is the intent of the Legislature that a victim  
39 of crime who incurs any economic loss as a result of the

1 commission of a crime shall receive restitution directly from any  
2 defendant convicted of that crime.

3 (2) Upon a person being convicted of any crime in the State of  
4 California, the court shall order the defendant to pay a fine in the  
5 form of a penalty assessment in accordance with Section 1464.

6 (3) The court, in addition to any other penalty provided or  
7 imposed under the law, shall order the defendant to pay both of the  
8 following:

9 (A) A restitution fine in accordance with subdivision (b).

10 (B) Restitution to the victim or victims, if any, in accordance  
11 with subdivision (f), which shall be enforceable as if the order  
12 were a civil judgment.

13 (b) In every case where a person is convicted of a crime, the  
14 court shall impose a separate and additional restitution fine, unless  
15 it finds compelling and extraordinary reasons for not doing so, and  
16 states those reasons on the record.

17 (1) The restitution fine shall be set at the discretion of the court  
18 and commensurate with the seriousness of the offense, but shall  
19 not be less than ~~two~~ *three* hundred dollars ~~(\$200)~~ *(\$300)*, and not  
20 more than ten thousand dollars (\$10,000), if the person is  
21 convicted of a felony, and shall not be less than ~~one~~ *two* hundred  
22 dollars ~~(\$100)~~ *(\$200)*, and not more than one thousand dollars  
23 (\$1,000), if the person is convicted of a misdemeanor.

24 (2) In setting a felony restitution fine, the court may determine  
25 the amount of the fine as the product of ~~two~~ *three* hundred dollars  
26 ~~(\$200)~~ *(\$300)* multiplied by the number of years of imprisonment  
27 the defendant is ordered to serve, multiplied by the number of  
28 felony counts of which the defendant is convicted.

29 (c) The court shall impose the restitution fine unless it finds  
30 compelling and extraordinary reasons for not doing so, and states  
31 those reasons on the record. A defendant's inability to pay shall not  
32 be considered a compelling and extraordinary reason not to impose  
33 a restitution fine. Inability to pay may be considered only in  
34 increasing the amount of the restitution fine in excess of the  
35 ~~two-hundred-dollar (\$200)~~ *three-hundred-dollar (\$300)* or  
36 ~~one-hundred-dollar (\$100)~~ *two-hundred-dollar (\$200)* minimum.

37 (d) In setting the amount of the fine pursuant to subdivision (b)  
38 in excess of the ~~two-hundred-dollar (\$200)~~ *three-hundred-dollar*  
39 ~~(\$300) or one-hundred-dollar (\$100)~~ *two-hundred-dollar (\$200)*  
40 minimum, the court shall consider any relevant factors including,

1 but not limited to, the defendant's inability to pay, the seriousness  
2 and gravity of the offense and the circumstances of its commission,  
3 any economic gain derived by the defendant as a result of the  
4 crime, the extent to which any other person suffered any losses as  
5 a result of the crime, and the number of victims involved in the  
6 crime. Those losses may include pecuniary losses to the victim or  
7 his or her dependents as well as intangible losses, such as  
8 psychological harm caused by the crime. Consideration of a  
9 defendant's inability to pay may include his or her future earning  
10 capacity. A defendant shall bear the burden of demonstrating his  
11 or her inability to pay. Express findings by the court as to the  
12 factors bearing on the amount of the fine shall not be required. A  
13 separate hearing for the fine shall not be required.

14 (e) The restitution fine shall not be subject to penalty  
15 assessments as provided in Section 1464, and shall be deposited in  
16 the Restitution Fund in the State Treasury.

17 (f) In every case in which a victim has suffered economic loss  
18 as a result of the defendant's conduct, the court shall require that  
19 the defendant make restitution to the victim or victims in an  
20 amount established by court order, based on the amount of loss  
21 claimed by the victim or victims or any other showing to the court.  
22 If the amount of loss cannot be ascertained at the time of  
23 sentencing, the restitution order shall include a provision that the  
24 amount shall be determined at the direction of the court. The court  
25 shall order full restitution unless it finds compelling and  
26 extraordinary reasons for not doing so, and states them on the  
27 record.

28 (1) The defendant has the right to a hearing before a judge to  
29 dispute the determination of the amount of restitution. The court  
30 may modify the amount, on its own motion or on the motion of the  
31 district attorney, the victim or victims, or the defendant. If a  
32 motion is made for modification of a restitution order, the victim  
33 shall be notified of that motion at least 10 days prior to the  
34 proceeding held to decide the motion.

35 (2) Determination of the amount of restitution ordered  
36 pursuant to this subdivision shall not be affected by the  
37 indemnification or subrogation rights of any third party.  
38 Restitution ordered pursuant to this subdivision shall be ordered  
39 to be deposited to the Restitution Fund to the extent that the victim,  
40 as defined in subdivision (k), has received assistance from the



~~Victims of Crime Victim Compensation~~ Program pursuant to  
~~Article 1 Chapter 5 (commencing with Section 13959) of Chapter~~  
~~5-13950~~) of Part 4 of Division 3 of Title 2 of the Government Code.

(3) To the extent possible, the restitution order shall be prepared by the sentencing court, shall identify each victim and each loss to which it pertains, and shall be of a dollar amount that is sufficient to fully reimburse the victim or victims for every determined economic loss incurred as the result of the defendant's criminal conduct, including, but not limited to, all of the following:

(A) Full or partial payment for the value of stolen or damaged property. The value of stolen or damaged property shall be the replacement cost of like property, or the actual cost of repairing the property when repair is possible.

(B) Medical expenses.

(C) Mental health counseling expenses.

(D) Wages or profits lost due to injury incurred by the victim, and if the victim is a minor, wages or profits lost by the minor's parent, parents, guardian, or guardians, while caring for the injured minor. Lost wages shall include any commission income as well as any base wages. Commission income shall be established by evidence of commission income during the 12-month period prior to the date of the crime for which restitution is being ordered, unless good cause for a shorter time period is shown.

(E) Wages or profits lost by the victim, and if the victim is a minor, wages or profits lost by the minor's parent, parents, guardian, or guardians, due to time spent as a witness or in assisting the police or prosecution. Lost wages shall include any commission income as well as any base wages. Commission income shall be established by evidence of commission income during the 12-month period prior to the date of the crime for which restitution is being ordered, unless good cause for a shorter time period is shown.

(F) Noneconomic losses, including, but not limited to, psychological harm, for felony violations of Section 288.

(G) Interest, at the rate of 10 percent per annum, that accrues as of the date of sentencing or loss, as determined by the court.

(H) Actual and reasonable attorney's fees and other costs of collection accrued by a private entity on behalf of the victim.

(I) Expenses incurred by an adult victim in relocating away from the defendant, including, but not limited to, deposits for utilities and telephone service, deposits for rental housing, temporary lodging and food expenses, clothing, and personal items. Expenses incurred pursuant to this section shall be verified by law enforcement to be necessary for the personal safety of the victim or by a mental health treatment provider to be necessary for the emotional well-being of the victim.

(J) Expenses to install or increase residential security incurred related to a crime, as defined in subdivision (c) of Section 667.5, including, but not limited to, a home security device or system, or replacing or increasing the number of locks.

(K) Expenses to retrofit a residence or vehicle, or both, to make the residence accessible to or the vehicle operational by the victim, if the victim is permanently disabled, whether the disability is partial or total, as a direct result of the crime.

(4) (A) If, as a result of the defendant's conduct, the Restitution Fund has provided assistance to or on behalf of a victim or derivative victim pursuant to ~~Article 4 Chapter 5~~ (commencing with Section 13959) ~~of Chapter 5~~ 13950) of Part 4 of Division 3 of Title 2 of the Government Code, the amount of assistance provided shall be presumed to be a direct result of the defendant's criminal conduct and shall be included in the amount of the restitution ordered.

(B) The amount of assistance provided by the Restitution Fund shall be established by copies of bills submitted to the ~~State Board of Control~~ *California Victim Compensation and Government Claims Board* reflecting the amount paid by the board and whether the services for which payment was made were for medical or dental expenses, funeral or burial expenses, mental health counseling, wage or support losses, or rehabilitation. Certified copies of these bills provided by the ~~State Board of Control~~ *board* and redacted to protect the privacy and safety of the victim or any legal privilege, together with a statement made under penalty of perjury by the custodian of records that those bills were submitted to and were paid by the ~~State Board of Control~~ *board*, shall be sufficient to meet this requirement.

(C) If the defendant offers evidence to rebut the presumption established by this paragraph, the court may release additional information contained in the records of the ~~State Board of Control~~

1 *board* to the defendant only after reviewing that information in  
2 camera and finding that the information is necessary for the  
3 defendant to dispute the amount of the restitution order.

4 (5) Except as provided in paragraph (6), in any case in which  
5 an order may be entered pursuant to this subdivision, the defendant  
6 shall prepare and file a disclosure identifying all assets, income,  
7 and liabilities in which the defendant held or controlled a present  
8 or future interest as of the date of the defendant's arrest for the  
9 crime for which restitution may be ordered. ~~This~~ *The financial*  
10 *disclosure statements* shall be *made* available to the victim *and the*  
11 *board* pursuant to Section 1214, ~~and any use the court may make~~  
12 ~~of the disclosure shall be subject to the restrictions of subdivision~~  
13 ~~(g)~~. The disclosure shall be signed by the defendant upon a form  
14 approved or adopted by the Judicial Council for the purpose of  
15 facilitating the disclosure. Any defendant who willfully states as  
16 true any material matter that he or she knows to be false on the  
17 disclosure required by this subdivision is guilty of a misdemeanor,  
18 unless this conduct is punishable as perjury or another provision  
19 of law provides for a greater penalty.

20 (6) A defendant who fails to file the financial disclosure  
21 required in paragraph (5), but who has filed a financial affidavit or  
22 financial information pursuant to subdivision (c) of Section 987,  
23 shall be deemed to have waived the confidentiality of that affidavit  
24 or financial information as to a victim in whose favor the order of  
25 restitution is entered pursuant to subdivision (f). The affidavit or  
26 information shall serve in lieu of the financial disclosure required  
27 in paragraph (5), and paragraphs (7) to (10), inclusive, shall not  
28 apply.

29 (7) Except as provided in paragraph (6), the defendant shall file  
30 the disclosure with the clerk of the court no later than the date set  
31 for the defendant's sentencing, unless otherwise directed by the  
32 court. The disclosure may be inspected or copied as provided by  
33 subdivision (b), (c), or (d) of Section 1203.05.

34 (8) In its discretion, the court may relieve the defendant of the  
35 duty under paragraph (7) of filing with the clerk by requiring that  
36 the defendant's disclosure be submitted as an attachment to, and  
37 be available to, those authorized to receive the following:

38 (A) Any report submitted pursuant to subparagraph (C) of  
39 paragraph (2) of subdivision (b) of Section 1203 or subdivision (g)  
40 of Section 1203.

1 (B) Any stipulation submitted pursuant to paragraph (4) of  
2 subdivision (b) of Section 1203.

3 (C) Any report by the probation officer, or any information  
4 submitted by the defendant applying for a conditional sentence  
5 pursuant to subdivision (d) of Section 1203.

6 (9) The court may consider a defendant's unreasonable failure  
7 to make a complete disclosure pursuant to paragraph (5) as any of  
8 the following:

9 (A) A circumstance in aggravation of the crime in imposing a  
10 term under subdivision (b) of Section 1170.

11 (B) A factor indicating that the interests of justice would not be  
12 served by admitting the defendant to probation under Section  
13 1203.

14 (C) A factor indicating that the interests of justice would not be  
15 served by conditionally sentencing the defendant under Section  
16 1203.

17 (D) A factor indicating that the interests of justice would not be  
18 served by imposing less than the maximum fine and sentence fixed  
19 by law for the case.

20 (10) A defendant's failure or refusal to make the required  
21 disclosure pursuant to paragraph (5) shall not delay entry of an  
22 order of restitution or pronouncement of sentence. In appropriate  
23 cases, the court may do any of the following:

24 (A) Require the defendant to be examined by the district  
25 attorney pursuant to subdivision (h).

26 (B) If sentencing the defendant under Section 1170, provide  
27 that the victim shall receive a copy of the portion of the probation  
28 report filed pursuant to Section 1203.10 concerning the  
29 defendant's employment, occupation, finances, and liabilities.

30 (C) If sentencing the defendant under Section 1203, set a date  
31 and place for submission of the disclosure required by paragraph  
32 (5) as a condition of probation or suspended sentence.

33 *(11) If a defendant has any remaining unpaid balance on a*  
34 *restitution order or fine 120 days prior to his or her scheduled*  
35 *release from probation or 120 days prior to his or her completion*  
36 *of a conditional sentence, the defendant shall prepare and file a*  
37 *new and updated financial disclosure identifying all assets,*  
38 *income, and liabilities in which the defendant holds or controls or*  
39 *has held or controlled a present or future interest during the*  
40 *defendant's period of probation or conditional sentence. The*

1 *financial disclosure shall be made available to the victim and the*  
2 *board pursuant to Section 1214. The disclosure shall be signed and*  
3 *prepared by the defendant on the same form as described in*  
4 *paragraph (5). Any defendant who willfully states as true any*  
5 *material matter that he or she knows to be false on the disclosure*  
6 *required by this subdivision is guilty of a misdemeanor, unless this*  
7 *conduct is punishable as perjury or another provision of law*  
8 *provides for a greater penalty. The financial disclosure required by*  
9 *this paragraph shall be filed with the clerk of the court no later*  
10 *than 90 days prior to the defendant's scheduled release from*  
11 *probation or completion of the defendant's conditional sentence.*

12 (g) The court shall order full restitution unless it finds  
13 compelling and extraordinary reasons for not doing so, and states  
14 those reasons on the record. A defendant's inability to pay shall not  
15 be considered a compelling and extraordinary reason not to impose  
16 a restitution order, nor shall inability to pay be a consideration in  
17 determining the amount of a restitution order.

18 (h) The district attorney may request an order of examination  
19 pursuant to the procedures specified in Article 2 (commencing  
20 with Section 708.110) of Chapter 6 of Division 2 of Title 9 of Part  
21 2 of the Code of Civil Procedure, in order to determine the  
22 defendant's financial assets for purposes of collecting on the  
23 restitution order.

24 (i) A restitution order imposed pursuant to subdivision (f) shall  
25 be enforceable as if the order were a civil judgment.

26 (j) The making of a restitution order pursuant to subdivision (f)  
27 shall not affect the right of a victim to recovery from the  
28 Restitution Fund as otherwise provided by law, except to the extent  
29 that restitution is actually collected pursuant to the order.  
30 Restitution collected pursuant to this subdivision shall be credited  
31 to any other judgments for the same losses obtained against the  
32 defendant arising out of the crime for which the defendant was  
33 convicted.

34 (k) For purposes of this section, "victim" shall include all of  
35 the following:

36 (1) The immediate surviving family of the actual victim.

37 (2) Any corporation, business trust, estate, trust, partnership,  
38 association, joint venture, government, governmental  
39 subdivision, agency, or instrumentality, or any other legal or  
40 commercial entity when that entity is a direct victim of a crime.



1     (3) ~~“Derivative victims” as defined in Section 13960.~~ Any  
2     person who has sustained economic loss as the result of a crime  
3     and who satisfies any of the following conditions:

4     (A) At the time of the crime was the parent, grandparent,  
5     sibling, spouse, child, or grandchild of the victim.

6     (B) At the time of the crime was living in the household of the  
7     victim.

8     (C) At the time of the crime was a person who had previously  
9     lived in the household of the victim for a period of not less than two  
10    years in a relationship substantially similar to a relationship listed  
11    in subparagraph (A).

12    (D) Is another family member of the victim, including, but not  
13    limited to, the victim’s fiance or fiancée, and who witnessed the  
14    crime.

15    (E) Is the primary caretaker of a minor victim.

16    (4) Any person who is eligible to receive assistance from the  
17    Restitution Fund pursuant to Chapter 5 (commencing with Section  
18    13950) of Part 4 of Division 3 of Title 2 of the Government Code.

19    (I) At its discretion, the board of supervisors of any county may  
20    impose a fee to cover the actual administrative cost of collecting  
21    the restitution fine, not to exceed 10 percent of the amount ordered  
22    to be paid, to be added to the restitution fine and included in the  
23    order of the court, the proceeds of which shall be deposited in the  
24    general fund of the county.

25    (m) In every case in which the defendant is granted probation,  
26    the court shall make the payment of restitution fines and orders  
27    imposed pursuant to this section a condition of probation. Any  
28    portion of a restitution order that remains unsatisfied after a  
29    defendant is no longer on probation shall continue to be  
30    enforceable by a victim pursuant to Section 1214 until the  
31    obligation is satisfied.

32    (n) If the court finds and states on the record compelling and  
33    extraordinary reasons why a restitution fine or full restitution order  
34    should not be required, the court shall order, as a condition of  
35    probation, that the defendant perform specified community  
36    service, unless it finds and states on the record compelling and  
37    extraordinary reasons not to require community service in addition  
38    to the finding that restitution should not be required. Upon  
39    revocation of probation, the court shall impose restitution pursuant  
40    to this section.



(o) The provisions of Section ~~13966.01~~ 13963 of the Government Code shall apply to restitution imposed pursuant to this section.

~~(p) (1) This section shall become operative on January 1, 2000, except when all of the following apply:~~

~~(A) A majority of judges of a court apply to the Judicial Council for an extension.~~

~~(B) The judicial application described in paragraph (1) documents the need for time to adjust restitution procedures and practices, as well as to facilitate judicial education and training in direct restitution to victims under subdivision (f).~~

~~(C) The Judicial Council grants the extension upon finding good cause.~~

~~(2) Upon the grant of an extension pursuant to the application of a court under this subdivision, the provisions of former Section 1214 shall continue to apply with respect to that court. The extension may be for any period of time set by the Judicial Council, but shall not exceed January 1, 2002, in any case. The court clerk shall notify the California Victim Compensation and Government Claims Board within 90 days of an order of restitution being imposed if the defendant is ordered to pay restitution to the board due to the victim receiving compensation from the Restitution Fund. Notification shall be accomplished by mailing a copy of the court order to the board, which may be done periodically by bulk mail or electronic mail.~~

~~(q) This section shall remain in effect only until January 1, 2007, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2007, deletes or extends that date.~~

SEC. 2.2. Section 1202.4 is added to the Penal Code, to read:

1202.4. (a) (1) It is the intent of the Legislature that a victim of crime who incurs any economic loss as a result of the commission of a crime shall receive restitution directly from any defendant convicted of that crime.

(2) Upon a person being convicted of any crime in the State of California, the court shall order the defendant to pay a fine in the form of a penalty assessment in accordance with Section 1464.

(3) The court, in addition to any other penalty provided or imposed under the law, shall order the defendant to pay both of the following:

(A) A restitution fine in accordance with subdivision (b).



1     (B) Restitution to the victim or victims, if any, in accordance  
2 with subdivision (f), which shall be enforceable as if the order were  
3 a civil judgment.

4     (b) In every case where a person is convicted of a crime, the  
5 court shall impose a separate and additional restitution fine,  
6 unless it finds compelling and extraordinary reasons for not doing  
7 so, and states those reasons on the record.

8     (1) The restitution fine shall be set at the discretion of the court  
9 and commensurate with the seriousness of the offense, but shall not  
10 be less than two hundred dollars (\$200), and not more than ten  
11 thousand dollars (\$10,000), if the person is convicted of a felony,  
12 and shall not be less than one hundred dollars (\$100), and not  
13 more than one thousand dollars (\$1,000), if the person is convicted  
14 of a misdemeanor.

15     (2) In setting a felony restitution fine, the court may determine  
16 the amount of the fine as the product of two hundred dollars (\$200)  
17 multiplied by the number of years of imprisonment the defendant  
18 is ordered to serve, multiplied by the number of felony counts of  
19 which the defendant is convicted.

20     (c) The court shall impose the restitution fine unless it finds  
21 compelling and extraordinary reasons for not doing so, and states  
22 those reasons on the record. A defendant's inability to pay shall not  
23 be considered a compelling and extraordinary reason not to  
24 impose a restitution fine. Inability to pay may be considered only  
25 in increasing the amount of the restitution fine in excess of the two  
26 hundred dollar (\$200) or one hundred dollar (\$100) minimum.

27     (d) In setting the amount of the fine pursuant to subdivision (b)  
28 in excess of the two hundred dollar (\$200) or one hundred dollar  
29 (\$100) minimum, the court shall consider any relevant factors  
30 including, but not limited to, the defendant's inability to pay, the  
31 seriousness and gravity of the offense and the circumstances of its  
32 commission, any economic gain derived by the defendant as a  
33 result of the crime, the extent to which any other person suffered  
34 any losses as a result of the crime, and the number of victims  
35 involved in the crime. Those losses may include pecuniary losses  
36 to the victim or his or her dependents as well as intangible losses,  
37 such as psychological harm caused by the crime. Consideration of  
38 a defendant's inability to pay may include his or her future earning  
39 capacity. A defendant shall bear the burden of demonstrating his  
40 or her inability to pay. Express findings by the court as to the

1 factors bearing on the amount of the fine shall not be required. A  
2 separate hearing for the fine shall not be required.

3 (e) The restitution fine shall not be subject to penalty  
4 assessments as provided in Section 1464, and shall be deposited  
5 in the Restitution Fund in the State Treasury.

6 (f) In every case in which a victim has suffered economic loss  
7 as a result of the defendant's conduct, the court shall require that  
8 the defendant make restitution to the victim or victims in an amount  
9 established by court order, based on the amount of loss claimed by  
10 the victim or victims or any other showing to the court. If the  
11 amount of loss cannot be ascertained at the time of sentencing, the  
12 restitution order shall include a provision that the amount shall be  
13 determined at the direction of the court. The court shall order full  
14 restitution unless it finds compelling and extraordinary reasons for  
15 not doing so, and states them on the record.

16 (1) The defendant has the right to a hearing before a judge to  
17 dispute the determination of the amount of restitution. The court  
18 may modify the amount, on its own motion or on the motion of the  
19 district attorney, the victim or victims, or the defendant. If a motion  
20 is made for modification of a restitution order, the victim shall be  
21 notified of that motion at least 10 days prior to the proceeding held  
22 to decide the motion.

23 (2) Determination of the amount of restitution ordered  
24 pursuant to this subdivision shall not be affected by the  
25 indemnification or subrogation rights of any third party.  
26 Restitution ordered pursuant to this subdivision shall be ordered  
27 to be deposited to the Restitution Fund to the extent that the victim,  
28 as defined in subdivision (k), has received assistance from the  
29 Victim Compensation Program pursuant to Chapter 5  
30 (commencing with Section 13950) of Part 4 of Division 3 of Title  
31 2 of the Government Code.

32 (3) To the extent possible, the restitution order shall be  
33 prepared by the sentencing court, shall identify each victim and  
34 each loss to which it pertains, and shall be of a dollar amount that  
35 is sufficient to fully reimburse the victim or victims for every  
36 determined economic loss incurred as the result of the defendant's  
37 criminal conduct, including, but not limited to, all of the following:

38 (A) Full or partial payment for the value of stolen or damaged  
39 property. The value of stolen or damaged property shall be the

1 *replacement cost of like property, or the actual cost of repairing the*  
2 *property when repair is possible.*

3 *(B) Medical expenses.*

4 *(C) Mental health counseling expenses.*

5 *(D) Wages or profits lost due to injury incurred by the victim,*  
6 *and if the victim is a minor, wages or profits lost by the minor's*  
7 *parent, parents, guardian, or guardians, while caring for the*  
8 *injured minor. Lost wages shall include any commission income as*  
9 *well as any base wages. Commission income shall be established*  
10 *by evidence of commission income during the 12-month period*  
11 *prior to the date of the crime for which restitution is being ordered,*  
12 *unless good cause for a shorter time period is shown.*

13 *(E) Wages or profits lost by the victim, and if the victim is a*  
14 *minor, wages or profits lost by the minor's parent, parents,*  
15 *guardian, or guardians, due to time spent as a witness or in*  
16 *assisting the police or prosecution. Lost wages shall include any*  
17 *commission income as well as any base wages. Commission*  
18 *income shall be established by evidence of commission income*  
19 *during the 12-month period prior to the date of the crime for which*  
20 *restitution is being ordered, unless good cause for a shorter time*  
21 *period is shown.*

22 *(F) Noneconomic losses, including, but not limited to,*  
23 *psychological harm, for felony violations of Section 288.*

24 *(G) Interest, at the rate of 10 percent per annum, that accrues*  
25 *as of the date of sentencing or loss, as determined by the court.*

26 *(H) Actual and reasonable attorney's fees and other costs of*  
27 *collection accrued by a private entity on behalf of the victim.*

28 *(I) Expenses incurred by an adult victim in relocating away*  
29 *from the defendant, including, but not limited to, deposits for*  
30 *utilities and telephone service, deposits for rental housing,*  
31 *temporary lodging and food expenses, clothing, and personal*  
32 *items. Expenses incurred pursuant to this section shall be verified*  
33 *by law enforcement to be necessary for the personal safety of the*  
34 *victim or by a mental health treatment provider to be necessary for*  
35 *the emotional well-being of the victim.*

36 *(J) Expenses to install or increase residential security incurred*  
37 *related to a crime, as defined in subdivision (c) of Section 667.5,*  
38 *including, but not limited to, a home security device or system, or*  
39 *replacing or increasing the number of locks.*

1 (K) Expenses to retrofit a residence or vehicle, or both, to make  
2 the residence accessible to or the vehicle operational by the victim,  
3 if the victim is permanently disabled, whether the disability is  
4 partial or total, as a direct result of the crime.

5 (4) (A) If, as a result of the defendant's conduct, the Restitution  
6 Fund has provided assistance to or on behalf of a victim or  
7 derivative victim pursuant to Chapter 5 (commencing with Section  
8 13950) of Part 4 of Division 3 of Title 2 of the Government Code,  
9 the amount of assistance provided shall be presumed to be a direct  
10 result of the defendant's criminal conduct and shall be included in  
11 the amount of the restitution ordered.

12 (B) The amount of assistance provided by the Restitution Fund  
13 shall be established by copies of bills submitted to the California  
14 Victim Compensation and Government Claims Board reflecting  
15 the amount paid by the board and whether the services for which  
16 payment was made were for medical or dental expenses, funeral  
17 or burial expenses, mental health counseling, wage or support  
18 losses, or rehabilitation. Certified copies of these bills provided by  
19 the board and redacted to protect the privacy and safety of the  
20 victim or any legal privilege, together with a statement made under  
21 penalty of perjury by the custodian of records that those bills were  
22 submitted to and were paid by the board, shall be sufficient to meet  
23 this requirement.

24 (C) If the defendant offers evidence to rebut the presumption  
25 established by this paragraph, the court may release additional  
26 information contained in the records of the board to the defendant  
27 only after reviewing that information in camera and finding that  
28 the information is necessary for the defendant to dispute the  
29 amount of the restitution order.

30 (5) Except as provided in paragraph (6), in any case in which  
31 an order may be entered pursuant to this subdivision, the defendant  
32 shall prepare and file a disclosure identifying all assets, income,  
33 and liabilities in which the defendant held or controlled a present  
34 or future interest as of the date of the defendant's arrest for the  
35 crime for which restitution may be ordered. The financial  
36 disclosure statements shall be made available to the victim and the  
37 board pursuant to Section 1214. The disclosure shall be signed by  
38 the defendant upon a form approved or adopted by the Judicial  
39 Council for the purpose of facilitating the disclosure. Any  
40 defendant who willfully states as true any material matter that he

1 *or she knows to be false on the disclosure required by this*  
2 *subdivision is guilty of a misdemeanor, unless this conduct is*  
3 *punishable as perjury or another provision of law provides for a*  
4 *greater penalty.*

5 *(6) A defendant who fails to file the financial disclosure*  
6 *required in paragraph (5), but who has filed a financial affidavit*  
7 *or financial information pursuant to subdivision (c) of Section*  
8 *987, shall be deemed to have waived the confidentiality of that*  
9 *affidavit or financial information as to a victim in whose favor the*  
10 *order of restitution is entered pursuant to subdivision (f). The*  
11 *affidavit or information shall serve in lieu of the financial*  
12 *disclosure required in paragraph (5), and paragraphs (7) to (10),*  
13 *inclusive, shall not apply.*

14 *(7) Except as provided in paragraph (6), the defendant shall*  
15 *file the disclosure with the clerk of the court no later than the date*  
16 *set for the defendant's sentencing, unless otherwise directed by the*  
17 *court. The disclosure may be inspected or copied as provided by*  
18 *subdivision (b), (c), or (d) of Section 1203.05.*

19 *(8) In its discretion, the court may relieve the defendant of the*  
20 *duty under paragraph (7) of filing with the clerk by requiring that*  
21 *the defendant's disclosure be submitted as an attachment to, and*  
22 *be available to, those authorized to receive the following:*

23 *(A) Any report submitted pursuant to subparagraph (C) of*  
24 *paragraph (2) of subdivision (b) of Section 1203 or subdivision (g)*  
25 *of Section 1203.*

26 *(B) Any stipulation submitted pursuant to paragraph (4) of*  
27 *subdivision (b) of Section 1203.*

28 *(C) Any report by the probation officer, or any information*  
29 *submitted by the defendant applying for a conditional sentence*  
30 *pursuant to subdivision (d) of Section 1203.*

31 *(9) The court may consider a defendant's unreasonable failure*  
32 *to make a complete disclosure pursuant to paragraph (5) as any*  
33 *of the following:*

34 *(A) A circumstance in aggravation of the crime in imposing a*  
35 *term under subdivision (b) of Section 1170.*

36 *(B) A factor indicating that the interests of justice would not be*  
37 *served by admitting the defendant to probation under Section*  
38 *1203.*



1 (C) A factor indicating that the interests of justice would not be  
2 served by conditionally sentencing the defendant under Section  
3 1203.

4 (D) A factor indicating that the interests of justice would not be  
5 served by imposing less than the maximum fine and sentence fixed  
6 by law for the case.

7 (10) A defendant's failure or refusal to make the required  
8 disclosure pursuant to paragraph (5) shall not delay entry of an  
9 order of restitution or pronouncement of sentence. In appropriate  
10 cases, the court may do any of the following:

11 (A) Require the defendant to be examined by the district  
12 attorney pursuant to subdivision (h).

13 (B) If sentencing the defendant under Section 1170, provide  
14 that the victim shall receive a copy of the portion of the probation  
15 report filed pursuant to Section 1203.10 concerning the  
16 defendant's employment, occupation, finances, and liabilities.

17 (C) If sentencing the defendant under Section 1203, set a date  
18 and place for submission of the disclosure required by paragraph  
19 (5) as a condition of probation or suspended sentence.

20 (11) If a defendant has any remaining unpaid balance on a  
21 restitution order or fine 120 days prior to his or her scheduled  
22 release from probation or 120 days prior to his or her completion  
23 of a conditional sentence, the defendant shall prepare and file a  
24 new and updated financial disclosure identifying all assets,  
25 income, and liabilities in which the defendant holds or controls or  
26 has held or controlled a present or future interest during the  
27 defendant's period of probation or conditional sentence. The  
28 financial disclosure shall be made available to the victim and the  
29 board pursuant to Section 1214. The disclosure shall be signed and  
30 prepared by the defendant on the same form as described in  
31 paragraph (5). Any defendant who willfully states as true any  
32 material matter that he or she knows to be false on the disclosure  
33 required by this subdivision is guilty of a misdemeanor, unless this  
34 conduct is punishable as perjury or another provision of law  
35 provides for a greater penalty. The financial disclosure required by  
36 this paragraph shall be filed with the clerk of the court no later  
37 than 90 days prior to the defendant's scheduled release from  
38 probation or completion of the defendant's conditional sentence.

39 (g) The court shall order full restitution unless it finds  
40 compelling and extraordinary reasons for not doing so, and states

1 *those reasons on the record. A defendant's inability to pay shall not*  
2 *be considered a compelling and extraordinary reason not to*  
3 *impose a restitution order; nor shall inability to pay be a*  
4 *consideration in determining the amount of a restitution order.*

5 *(h) The district attorney may request an order of examination*  
6 *pursuant to the procedures specified in Article 2 (commencing with*  
7 *Section 708.110) of Chapter 6 of Division 2 of Title 9 of Part 2 of*  
8 *the Code of Civil Procedure, in order to determine the defendant's*  
9 *financial assets for purposes of collecting on the restitution order.*

10 *(i) A restitution order imposed pursuant to subdivision (f) shall*  
11 *be enforceable as if the order were a civil judgment.*

12 *(j) The making of a restitution order pursuant to subdivision (f)*  
13 *shall not affect the right of a victim to recovery from the Restitution*  
14 *Fund as otherwise provided by law, except to the extent that*  
15 *restitution is actually collected pursuant to the order. Restitution*  
16 *collected pursuant to this subdivision shall be credited to any other*  
17 *judgments for the same losses obtained against the defendant*  
18 *arising out of the crime for which the defendant was convicted.*

19 *(k) For purposes of this section, "victim" shall include all of*  
20 *the following:*

21 *(1) The immediate surviving family of the actual victim.*

22 *(2) Any corporation, business trust, estate, trust, partnership,*  
23 *association, joint venture, government, governmental subdivision,*  
24 *agency, or instrumentality, or any other legal or commercial entity*  
25 *when that entity is a direct victim of a crime.*

26 *(3) Any person who has sustained economic loss as the result*  
27 *of a crime and who satisfies any of the following conditions:*

28 *(A) At the time of the crime was the parent, grandparent,*  
29 *sibling, spouse, child, or grandchild of the victim.*

30 *(B) At the time of the crime was living in the household of the*  
31 *victim.*

32 *(C) At the time of the crime was a person who had previously*  
33 *lived in the household of the victim for a period of not less than two*  
34 *years in a relationship substantially similar to a relationship listed*  
35 *in subparagraph (A).*

36 *(D) Is another family member of the victim, including, but not*  
37 *limited to, the victim's fiancé or fiancée, and who witnessed the*  
38 *crime.*

39 *(E) Is the primary caretaker of a minor victim.*



1 (4) Any person who is eligible to receive assistance from the  
2 Restitution Fund pursuant to Chapter 5 (commencing with Section  
3 13950) of Part 4 of Division 3 of Title 2 of the Government Code.

4 (l) At its discretion, the board of supervisors of any county may  
5 impose a fee to cover the actual administrative cost of collecting  
6 the restitution fine, not to exceed 10 percent of the amount ordered  
7 to be paid, to be added to the restitution fine and included in the  
8 order of the court, the proceeds of which shall be deposited in the  
9 general fund of the county.

10 (m) In every case in which the defendant is granted probation,  
11 the court shall make the payment of restitution fines and orders  
12 imposed pursuant to this section a condition of probation. Any  
13 portion of a restitution order that remains unsatisfied after a  
14 defendant is no longer on probation shall continue to be  
15 enforceable by a victim pursuant to Section 1214 until the  
16 obligation is satisfied.

17 (n) If the court finds and states on the record compelling and  
18 extraordinary reasons why a restitution fine or full restitution  
19 order should not be required, the court shall order, as a condition  
20 of probation, that the defendant perform specified community  
21 service, unless it finds and states on the record compelling and  
22 extraordinary reasons not to require community service in addition  
23 to the finding that restitution should not be required. Upon  
24 revocation of probation, the court shall impose restitution  
25 pursuant to this section.

26 (o) The provisions of Section 13963 of the Government Code  
27 shall apply to restitution imposed pursuant to this section.

28 (p) The court clerk shall notify the California Victim  
29 Compensation and Government Claims Board within 90 days of an  
30 order of restitution being imposed if the defendant is ordered to pay  
31 restitution to the board due to the victim receiving compensation  
32 from the Restitution Fund. Notification shall be accomplished by  
33 mailing a copy of the court order to the board, which may be done  
34 periodically by bulk mail or electronic mail.

35 (q) This section shall become operative on January 1, 2007.

36 SEC. 3. Section 1202.44 is added to the Penal Code, to read:

37 1202.44. In every case in which a person is convicted of a  
38 crime and a conditional sentence or a sentence that includes a  
39 period of probation is imposed, the court shall, at the time of  
40 imposing the restitution fine pursuant to subdivision (b) of Section

1 1202.4, assess an additional probation revocation restitution fine  
2 in the same amount as that imposed pursuant to subdivision (b) of  
3 Section 1202.4. This additional probation revocation restitution  
4 fine shall become effective upon the revocation of probation or of  
5 a conditional sentence, and shall not be waived or reduced by the  
6 court, absent compelling and extraordinary reasons stated on  
7 record. Probation revocation restitution fines shall be deposited in  
8 the Restitution Fund in the State Treasury.

9 SEC. 4. Section 1202.45 of the Penal Code is amended to  
10 read:

11 1202.45. In every case where a person is convicted of a crime  
12 and whose sentence includes a period of parole, the court shall at  
13 the time of imposing the restitution fine pursuant to subdivision (b)  
14 of Section 1202.4, assess an additional parole revocation  
15 restitution fine in the same amount as that imposed pursuant to  
16 subdivision (b) of Section 1202.4. This additional parole  
17 revocation restitution fine shall be suspended unless the person's  
18 parole is revoked. Parole revocation restitution fine moneys shall  
19 be deposited in the Restitution Fund in the State Treasury.

20 SEC. 5. Section 1214 of the Penal Code is amended to read:

21 1214. (a) If the judgment is for a fine, including a restitution  
22 fine ordered pursuant to Section 1202.4, 1202.44, or 1202.45, or  
23 Section 1203.04 as operative on or before August 2, 1995, or  
24 Section 13967 of the Government Code, as operative on or before  
25 September 28, 1994, with or without imprisonment, or a diversion  
26 restitution fee ordered pursuant to Section 1001.90, the judgment  
27 may be enforced in the manner provided for the enforcement of  
28 money judgments generally. Any portion of a restitution fine or  
29 restitution fee that remains unsatisfied after a defendant is no  
30 longer on probation or parole or has completed diversion is  
31 enforceable by the Victim Compensation and Government Claims  
32 Board pursuant to this section. Notwithstanding any other  
33 provision of law prohibiting disclosure, the state, as defined in  
34 Section 900.6 of the Government Code, a local public entity, as  
35 defined in Section 900.4 of the Government Code, or any other  
36 entity, may provide the Victim Compensation and Government  
37 Claims Board any and all information to assist in the collection of  
38 unpaid portions of a restitution fine for terminated probation or  
39 parole cases, or of a restitution fee for completed diversion cases.  
40 For purposes of the preceding sentence, "state, as defined in

1 Section 900.6 of the Government Code,” and “any other entity”  
2 shall not include the Franchise Tax Board.

3 (b) In any case in which a defendant is ordered to pay  
4 restitution, the order to pay restitution (1) is deemed a money  
5 judgment if the defendant was informed of his or her right to have  
6 a judicial determination of the amount and was provided with a  
7 hearing, waived a hearing, or stipulated to the amount of the  
8 restitution ordered, and (2) shall be fully enforceable by a victim  
9 as if the restitution order were a civil judgment, and enforceable  
10 in the same manner as is provided for the enforcement of any other  
11 money judgment. Upon the victim’s request, the court shall  
12 provide the victim in whose favor the order of restitution is entered  
13 with a certified copy of that order and a copy of the defendant’s  
14 disclosure pursuant to paragraph (4) of subdivision (f) of Section  
15 1202.4, affidavit or information pursuant to paragraph (5) of  
16 subdivision (f) of Section 1202.4, or report pursuant to paragraph  
17 (7) of subdivision (f) of Section 1202.4. The court also shall  
18 provide this information to the district attorney upon request in  
19 connection with an investigation or prosecution involving perjury  
20 or the veracity of the information contained within the defendant’s  
21 financial disclosure. In addition, upon request, the court shall  
22 provide the Victim Compensation and Government Claims Board  
23 with a certified copy of any order imposing a restitution fine or  
24 order and a copy of the defendant’s disclosure pursuant to  
25 paragraph (4) of subdivision (f) of Section 1202.4, affidavit or  
26 information pursuant to paragraph (5) of subdivision (f) of Section  
27 1202.4, or report pursuant to paragraph (7) of subdivision (f) of  
28 Section 1202.4. A victim shall have access to all resources  
29 available under the law to enforce the restitution order, including,  
30 but not limited to, access to the defendant’s financial records, use  
31 of wage garnishment and lien procedures, information regarding  
32 the defendant’s assets, and the ability to apply for restitution from  
33 any fund established for the purpose of compensating victims in  
34 civil cases. Any portion of a restitution order that remains  
35 unsatisfied after a defendant is no longer on probation or parole is  
36 enforceable by the victim pursuant to this section. Victims and the  
37 Victim Compensation and Government Claims Board shall inform  
38 the court whenever an order to pay restitution is satisfied.

39 (c) Except as provided in subdivision (d), and notwithstanding  
40 the amount in controversy limitation of Section 85 of the Code of

Civil Procedure, a restitution order or restitution fine that was imposed pursuant to Section 1202.4 in any of the following cases may be enforced in the same manner as a money judgment in a limited civil case:

(1) In a misdemeanor case.

(2) In a case involving violation of a city or town ordinance.

(3) In a noncapital criminal case where the court has received a plea of guilty or nolo contendere.

(d) Chapter 3 (commencing with Section 683.010) of Division 1 of Title 9 of Part 2 of the Code of Civil Procedure shall not apply to a judgment for any fine or restitution ordered pursuant to Section 1202.4 or Section 1203.04 as operative on or before August 2, 1995, or Section 13967 of the Government Code, as operative on or before September 28, 1994, or to a diversion restitution fee ordered pursuant to Section 1001.90.

SEC. 6. Section 2085.5 of the Penal Code is amended to read:

2085.5. (a) In any case in which a prisoner owes a restitution fine imposed pursuant to subdivision (a) of Section 13967 of the Government Code, as operative prior to September 28, 1994, subdivision (b) of Section 730.6 of the Welfare and Institutions Code, or subdivision (b) of Section 1202.4, the Director of Corrections shall deduct a minimum of 20 percent or the balance owing on the fine amount, whichever is less, up to a maximum of 50 percent from the wages and trust account deposits of a prisoner, unless prohibited by federal law, and shall transfer that amount to the California Victim Compensation and Government Claims Board for deposit in the Restitution Fund in the State Treasury. Any amount so deducted shall be credited against the amount owing on the fine. The sentencing court shall be provided a record of the payments.

(b) In any case in which a prisoner owes a restitution order imposed pursuant to subdivision (c) of Section 13967 of the Government Code, as operative prior to September 28, 1994, subdivision (h) of Section 730.6 of the Welfare and Institutions Code, or subdivision (f) of Section 1202.4, the Director of Corrections shall deduct a minimum of 20 percent or the balance owing on the order amount, whichever is less, up to a maximum of 50 percent from the wages and trust account deposits of a prisoner, unless prohibited by federal law. If the restitution is owed to a person who has filed an application with the Victim

1 Compensation Program, the director shall transfer that amount to  
2 the California Victim Compensation and Government Claims  
3 Board for direct payment to the victim, or payment shall be made  
4 to the Restitution Fund to the extent that the victim has received  
5 assistance pursuant to that program. No deductions shall be made  
6 on behalf of victims who have not filed an application with the  
7 Victim Compensation Program. The sentencing court shall be  
8 provided a record of the payments made to victims and of the  
9 payments deposited to the Restitution Fund pursuant to this  
10 subdivision.

11 (c) The director shall deduct and retain from the wages and trust  
12 account deposits of a prisoner, unless prohibited by federal law, an  
13 administrative fee that totals 10 percent of any amount transferred  
14 to the California Victim Compensation and Government Claims  
15 Board pursuant to subdivision (a) or (b). The director shall deduct  
16 and retain from any prisoner settlement or trial award, an  
17 administrative fee that totals 5 percent of any amount paid from the  
18 settlement or award to satisfy an outstanding restitution order or  
19 fine pursuant to subdivision (j), unless prohibited by federal law.  
20 The director shall deposit the administrative fee moneys in a  
21 special deposit account for reimbursing administrative and  
22 support costs of the restitution program of the Department of  
23 Corrections. The director, at his or her discretion, may retain any  
24 excess funds in the special deposit account for future  
25 reimbursement of the department's administrative and support  
26 costs for the restitution program or may transfer all or part of the  
27 excess funds for deposit in the Restitution Fund.

28 (d) In any case in which a parolee owes a restitution fine  
29 imposed pursuant to subdivision (a) of Section 13967 of the  
30 Government Code, as operative prior to September 28, 1994,  
31 subdivision (b) of Section 730.6 of the Welfare and Institutions  
32 Code, or subdivision (b) of Section 1202.4, the Director of  
33 Corrections may collect from the parolee any moneys owing on the  
34 restitution fine amount, unless prohibited by federal law. The  
35 director shall transfer that amount to the California Victim  
36 Compensation and Government Claims Board for deposit in the  
37 Restitution Fund in the State Treasury. Any amount so deducted  
38 shall be credited against the amount owing on the fine. The  
39 sentencing court shall be provided a record of the payments.



(e) In any case in which a parolee owes a direct order of restitution, imposed pursuant to subdivision (c) of Section 13967 of the Government Code, as operative prior to September 28, 1994, subdivision (h) of Section 730.6 of the Welfare and Institutions Code, or paragraph (3) of subdivision (a) of Section 1202.4, the Director of Corrections may collect from the parolee any moneys owing, unless prohibited by federal law. If the restitution is owed to a person who has filed an application with the Victim Compensation Program, the director shall transfer that amount to the California Victim Compensation and Government Claims Board for direct payment to the victim, or payment shall be made to the Restitution Fund to the extent that the victim has received assistance pursuant to that program. No deductions shall be made on behalf of victims who have not filed an application with the Victim Compensation Program. The sentencing court shall be provided a record of the payments made by the offender pursuant to this subdivision.

(f) The director may deduct and retain from any moneys collected from parolees an administrative fee that totals 10 percent of any amount transferred to the California Victim Compensation and Government Claims Board pursuant to subdivision (d) or (e), unless prohibited by federal law. The director shall deduct and retain from any settlement or trial award of a parolee an administrative fee that totals 5 percent of any amount paid from the settlement or award to satisfy an outstanding restitution order or fine pursuant to subdivision (j), unless prohibited by federal law. The director shall deposit the administrative fee moneys in a special deposit account for reimbursing administrative and support costs of the restitution program of the Department of Corrections. The director, at his or her discretion, may retain any excess funds in the special deposit account for future reimbursement of the department's administrative and support costs for the restitution program or may transfer all or part of the excess funds for deposit in the Restitution Fund.

(g) When a prisoner has both a restitution fine and a restitution order from the sentencing court, the Department of Corrections shall collect the restitution order first pursuant to subdivision (b).

(h) When a parolee has both a restitution fine and order from the sentencing court, the Department of Corrections may collect the restitution order first, pursuant to subdivision (e).



(i) If an inmate is housed at an institution that requires food to be purchased from the institution canteen for unsupervised overnight visits, and if the money for the purchase of this food is received from funds other than the inmate's wages, that money shall be exempt from restitution deductions. This exemption shall apply to the actual amount spent on food for the visit up to a maximum of fifty dollars (\$50) for visits that include the inmate and one visitor, seventy dollars (\$70) for visits that include the inmate and two or three visitors, and eighty dollars (\$80) for visits that include the inmate and four or more visitors.

(j) Any compensatory or punitive damages awarded by trial or settlement to any inmate or parolee in connection with a civil action brought against any federal, state, or local jail, prison, or correctional facility, or any official or agent thereof, shall be paid directly, after payment of reasonable attorney's fees and litigation costs approved by the court, to satisfy any outstanding restitution orders or restitution fines against that person. The balance of any award shall be forwarded to the payee after full payment of all outstanding restitution orders and restitution fines, subject to subdivisions (c) and (f). The Department of Corrections shall make all reasonable efforts to notify the victims of the crime for which that person was convicted concerning the pending payment of any compensatory or punitive damages.

(k) (1) Amounts transferred to the California Victim Compensation and Government Claims Board for payment of direct orders of restitution shall be paid to the victim within 60 days from the date the restitution revenues are received by the California Victim Compensation and Government Claims Board. If the restitution payment to a victim is less than fifty dollars (\$50), then payment need not be forwarded to that victim until the payment reaches fifty dollars (\$50) or until 180 days from the date the first payment is received, whichever occurs sooner.

(2) In any case in which a victim cannot be located, the restitution revenues received by the California Victim Compensation and Government Claims Board on behalf of the victim shall be held in trust in the Restitution Fund until the end of the state fiscal year subsequent to the state fiscal year in which the funds were deposited or until the time that the victim has provided current address information, whichever occurs sooner.



Amounts remaining in trust at the end of the specified period of time shall revert to the Restitution Fund.

(3) Any victim failing to provide a current address within the period of time specified in paragraph (2) may provide documentation to the Department of Corrections, which in turn shall verify that moneys were in fact collected on behalf of the victim. Upon receipt of that verified information from the Department of Corrections, the California Victim Compensation and Government Claims Board shall transmit the restitution revenues to the victim in accordance with the provisions of subdivision (b).

~~SEC. 7.~~

*SEC. 6.1. Section 2085.5 of the Penal Code is amended to read:*

2085.5. (a) In any case in which a prisoner owes a restitution fine imposed pursuant to subdivision (a) of Section 13967 of the Government Code, as operative prior to September 28, 1994, *subdivision (b) of Section 730.6 of the Welfare and Institutions Code*, or subdivision (b) of Section 1202.4, the Director of Corrections shall deduct a minimum of 20 percent or the balance owing on the fine amount, whichever is less, up to a maximum of ~~50~~ 30 percent from the wages and trust account deposits of a prisoner, unless prohibited by federal law, and shall transfer that amount to the California Victim Compensation and Government Claims Board for deposit in the Restitution Fund in the State Treasury. Any amount so deducted shall be credited against the amount owing on the fine. The sentencing court shall be provided a record of the payments.

(b) In any case in which a prisoner owes a restitution order imposed pursuant to subdivision (c) of Section 13967 of the Government Code, as operative prior to September 28, 1994, *subdivision (h) of Section 730.6 of the Welfare and Institutions Code*, or subdivision (f) of Section 1202.4, the Director of Corrections shall deduct a minimum of 20 percent or the balance owing on the order amount, whichever is less, up to a maximum of ~~50~~ 30 percent from the wages and trust account deposits of a prisoner, unless prohibited by federal law. If the restitution is owed to a person who has filed an application with the ~~Victims of Crime~~ *Victim Compensation Program*, the director shall transfer that amount to the California Victim Compensation and Government

1 Claims Board for direct payment to the victim, or payment shall  
2 be made to the Restitution Fund to the extent that the victim has  
3 received assistance pursuant to that program. No deductions shall  
4 be made on behalf of victims who have not filed an application  
5 with the ~~Victims of Crime~~ *Victim Compensation* Program. The  
6 sentencing court shall be provided a record of the payments made  
7 to victims and of the payments deposited to the Restitution Fund  
8 pursuant to this subdivision.

9 (c) The director shall deduct and retain from the wages and trust  
10 account deposits of a prisoner, unless prohibited by federal law, an  
11 administrative fee that totals *up to* 10 percent of any amount  
12 transferred to the California Victim Compensation and  
13 Government Claims Board pursuant to subdivision (a) or (b). The  
14 director shall deduct and retain from any prisoner settlement or  
15 trial award, an administrative fee that totals 5 percent of any  
16 amount paid from the settlement or award to satisfy an outstanding  
17 restitution order or fine pursuant to subdivision (j), unless  
18 prohibited by federal law. The director shall deposit the  
19 administrative fee moneys in a special deposit account for  
20 reimbursing administrative and support costs of the restitution  
21 program of the Department of Corrections. ~~The director, at his or~~  
22 ~~her discretion, may retain any excess funds in the special deposit~~  
23 ~~account for future reimbursement of the department's~~  
24 ~~administrative and support costs for the restitution program or may~~  
25 ~~transfer all or part of the excess funds for deposit in the Restitution~~  
26 ~~Fund.~~

27 (d) In any case in which a parolee owes a restitution fine  
28 imposed pursuant to subdivision (a) of Section 13967 of the  
29 Government Code, as operative prior to September 28, 1994,  
30 *subdivision (b) of Section 730.6 of the Welfare and Institutions*  
31 *Code*, or subdivision (b) of Section 1202.4, the Director of  
32 Corrections may collect from the parolee any moneys owing on the  
33 restitution fine amount, unless prohibited by federal law, ~~and~~. *The*  
34 *director* shall transfer that amount to the California Victim  
35 Compensation and Government Claims Board for deposit in the  
36 Restitution Fund in the State Treasury. Any amount so deducted  
37 shall be credited against the amount owing on the fine. The  
38 sentencing court shall be provided a record of the payments.

39 (e) In any case in which a parolee owes a direct order of  
40 restitution, imposed pursuant to subdivision (c) of Section 13967

1 of the Government Code, as operative prior to September 28,  
2 1994, *subdivision (h) of Section 730.6 of the Welfare and*  
3 *Institutions Code*, or paragraph (3) of subdivision (a) of Section  
4 1202.4, the Director of Corrections may collect from the parolee  
5 any moneys owing, unless prohibited by federal law. If the  
6 restitution is owed to a person who has filed an application with  
7 the ~~Victims of Crime~~ *Victim Compensation* Program, the director  
8 shall transfer that amount to the California Victim Compensation  
9 and Government Claims Board for direct payment to the victim,  
10 or payment shall be made to the Restitution Fund to the extent that  
11 the victim has received assistance pursuant to that program. No  
12 deductions shall be made on behalf of victims who have not filed  
13 an application with the ~~Victims of Crime~~ *Victim Compensation*  
14 Program. The sentencing court shall be provided a record of the  
15 payments made by the offender pursuant to this subdivision.

16 (f) The director may deduct and retain from any moneys  
17 collected from parolees an administrative fee that totals *up to* 10  
18 percent of any amount transferred to the California Victim  
19 Compensation and Government Claims Board pursuant to  
20 subdivision (d) or (e), unless prohibited by federal law. The  
21 director shall deduct and retain from any settlement or trial award  
22 of a parolee an administrative fee that totals 5 percent of any  
23 amount paid from the settlement or award to satisfy an outstanding  
24 restitution order or fine pursuant to subdivision (j), unless  
25 prohibited by federal law. The director shall deposit the  
26 administrative fee moneys in a special deposit account for  
27 reimbursing administrative and support costs of the restitution  
28 program of the Department of Corrections. ~~The director, at his or~~  
29 ~~her discretion, may retain any excess funds in the special deposit~~  
30 ~~account for future reimbursement of the department's~~  
31 ~~administrative and support costs for the restitution program or may~~  
32 ~~transfer all or part of the excess funds for deposit in the Restitution~~  
33 ~~Fund.~~

34 (g) When a prisoner has both a restitution fine and a restitution  
35 order from the sentencing court, the Department of Corrections  
36 shall collect the restitution order first pursuant to subdivision (b).

37 (h) When a parolee has both a restitution fine and order from  
38 the sentencing court, the Department of Corrections may collect  
39 the restitution order first, pursuant to subdivision (e).

1 (i) If an inmate is housed at an institution that requires food to  
2 be purchased from the institution canteen for unsupervised  
3 overnight visits, and if the money for the purchase of this food is  
4 received from funds other than the inmate's wages, that money  
5 shall be exempt from restitution deductions. This exemption shall  
6 apply to the actual amount spent on food for the visit up to a  
7 maximum of fifty dollars (\$50) for visits that include the inmate  
8 and one visitor, seventy dollars (\$70) for visits that include the  
9 inmate and two or three visitors, and eighty dollars (\$80) for visits  
10 that include the inmate and four or more visitors.

11 (j) Any compensatory or punitive damages awarded by trial or  
12 settlement to any inmate or parolee in connection with a civil  
13 action brought against any federal, state, or local jail, prison, or  
14 correctional facility, or any official or agent thereof, shall be paid  
15 directly, after payment of reasonable attorney's fees and litigation  
16 costs approved by the court, to satisfy any outstanding restitution  
17 orders or restitution fines against that person. The balance of any  
18 award shall be forwarded to the payee after full payment of all  
19 outstanding restitution orders and restitution fines, subject to  
20 subdivisions (c) and (f). The Department of Corrections shall  
21 make all reasonable efforts to notify the victims of the crime for  
22 which that person was convicted concerning the pending payment  
23 of any compensatory or punitive damages.

24 (k) (1) Amounts transferred to the California Victim  
25 Compensation and Government Claims Board for payment of  
26 direct orders of restitution shall be paid to the victim within 60  
27 days from the date the restitution revenues are received by the  
28 California Victim Compensation and Government Claims Board.  
29 If the restitution payment to a victim is less than fifty dollars (\$50),  
30 then payment need not be forwarded to that victim until the  
31 payment reaches fifty dollars (\$50) or until 180 days from the date  
32 the first payment is received, whichever occurs sooner.

33 (2) In any case in which a victim cannot be located, the  
34 restitution revenues received by the California Victim  
35 Compensation and Government Claims Board on behalf of the  
36 victim shall be held in trust in the Restitution Fund until the end  
37 of the state fiscal year subsequent to the state fiscal year in which  
38 the funds were deposited or until the time that the victim has  
39 provided current address information, whichever occurs sooner.



Amounts remaining in trust at the end of the specified period of time shall revert to the Restitution Fund.

(3) Any victim failing to provide a current address within the period of time specified in paragraph (2) may provide documentation to the Department of Corrections, which in turn shall verify that moneys were in fact collected on behalf of the victim. Upon receipt of that verified information from the Department of Corrections, the California Victim Compensation and Government Claims Board shall transmit the restitution revenues to the victim in accordance with the provisions of subdivision (b).

*(1) This section shall become inoperative on July 1, 2008, and, as of January 1, 2009, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2009, deletes or extends the dates on which it becomes inoperative and is repealed.*

SEC. 6.2. Section 2085.5 is added to the Penal Code, to read:

2085.5. (a) In any case in which a prisoner owes a restitution fine imposed pursuant to subdivision (a) of Section 13967 of the Government Code, as operative prior to September 28, 1994, subdivision (b) of Section 730.6 of the Welfare and Institutions Code, or subdivision (b) of Section 1202.4, the Director of Corrections shall deduct a minimum of 20 percent or the balance owing on the fine amount, whichever is less, up to a maximum of 30 percent from the wages and trust account deposits of a prisoner, unless prohibited by federal law, and shall transfer that amount to the California Victim Compensation and Government Claims Board for deposit in the Restitution Fund in the State Treasury. Any amount so deducted shall be credited against the amount owing on the fine. The sentencing court shall be provided a record of the payments.

(b) In any case in which a prisoner owes a restitution order imposed pursuant to subdivision (c) of Section 13967 of the Government Code, as operative prior to September 28, 1994, or subdivision (h) of Section 730.6 of the Welfare and Institutions Code, or subdivision (f) of Section 1202.4, the Director of Corrections shall deduct a minimum of 20 percent or the balance owing on the order amount, whichever is less, up to a maximum of 30 percent from the wages and trust account deposits of a prisoner, unless prohibited by federal law. If the restitution is owed to a person who has filed an application with the Victim Compensation

1 *Program, the director shall transfer that amount to the California*  
2 *Victim Compensation and Government Claims Board for direct*  
3 *payment to the victim, or payment shall be made to the Restitution*  
4 *Fund to the extent that the victim has received assistance pursuant*  
5 *to that program. No deductions shall be made on behalf of victims*  
6 *who have not filed an application with the Victim Compensation*  
7 *Program. The sentencing court shall be provided a record of the*  
8 *payments made to victims and of the payments deposited to the*  
9 *Restitution Fund pursuant to this subdivision.*

10 *(c) The director shall deduct and retain from the wages and*  
11 *trust account deposits of a prisoner, unless prohibited by federal*  
12 *law, an administrative fee that totals 5 percent of any amount*  
13 *transferred to the California Victim Compensation and*  
14 *Government Claims Board pursuant to subdivision (a) or (b). The*  
15 *director shall deduct and retain from any prisoner settlement or*  
16 *trial award, an administrative fee that totals 5 percent of any*  
17 *amount paid from the settlement or award to satisfy an outstanding*  
18 *restitution order or fine pursuant to subdivision (j), unless*  
19 *prohibited by federal law. The director shall deposit the*  
20 *administrative fee moneys in a special deposit account for*  
21 *reimbursing administrative and support costs of the restitution*  
22 *program of the Department of Corrections.*

23 *(d) In any case in which a parolee owes a restitution fine*  
24 *imposed pursuant to subdivision (a) of Section 13967 of the*  
25 *Government Code, as operative prior to September 28, 1994, or*  
26 *subdivision (b) of Section 730.6 of the Welfare and Institutions*  
27 *Code, or subdivision (b) of Section 1202.4, the Director of*  
28 *Corrections may collect from the parolee any moneys owing on the*  
29 *restitution fine amount, unless prohibited by federal law. The*  
30 *director shall transfer that amount to the California Victim*  
31 *Compensation and Government Claims Board for deposit in the*  
32 *Restitution Fund in the State Treasury. Any amount so deducted*  
33 *shall be credited against the amount owing on the fine. The*  
34 *sentencing court shall be provided a record of the payments.*

35 *(e) In any case in which a parolee owes a direct order of*  
36 *restitution, imposed pursuant to subdivision (c) of Section 13967*  
37 *of the Government Code, as operative prior to September 28,*  
38 *1994, subdivision (h) of Section 730.6 of the Welfare and*  
39 *Institutions Code, or paragraph (3) of subdivision (a) of Section*  
40 *1202.4, the Director of Corrections may collect from the parolee*



1 any moneys owing, unless prohibited by federal law. If the  
2 restitution is owed to a person who has filed an application with  
3 the Victim Compensation Program, the director shall transfer that  
4 amount to the California Victim Compensation and Government  
5 Claims Board for direct payment to the victim, or payment shall be  
6 made to the Restitution Fund to the extent that the victim has  
7 received assistance pursuant to that program. No deductions shall  
8 be made on behalf of victims who have not filed an application with  
9 the Victim Compensation Program. The sentencing court shall be  
10 provided a record of the payments made by the offender pursuant  
11 to this subdivision.

12 (f) The director may deduct and retain from any moneys  
13 collected from parolees an administrative fee that totals 10 percent  
14 of any amount transferred to the California Victim Compensation  
15 and Government Claims Board pursuant to subdivision (d) or (e),  
16 unless prohibited by federal law. The director shall deduct and  
17 retain from any settlement or trial award of a parolee an  
18 administrative fee that totals 5 percent of any amount paid from the  
19 settlement or award to satisfy an outstanding restitution order or  
20 fine pursuant to subdivision (j), unless prohibited by federal law.  
21 The director shall deposit the administrative fee moneys in a  
22 special deposit account for reimbursing administrative and  
23 support costs of the restitution program of the Department of  
24 Corrections.

25 (g) When a prisoner has both a restitution fine and a restitution  
26 order from the sentencing court, the Department of Corrections  
27 shall collect the restitution order first, pursuant to subdivision (b).

28 (h) When a parolee has both a restitution fine and order from  
29 the sentencing court, the Department of Corrections may collect  
30 the restitution order first, pursuant to subdivision (e).

31 (i) If an inmate is housed at an institution that requires food to  
32 be purchased from the institution canteen for unsupervised  
33 overnight visits, and if the money for the purchase of this food is  
34 received from funds other than the inmate's wages, that money  
35 shall be exempt from restitution deductions. This exemption shall  
36 apply to the actual amount spent on food for the visit up to a  
37 maximum of fifty dollars (\$50) for visits that include the inmate  
38 and one visitor, seventy dollars (\$70) for visits that include the  
39 inmate and two or three visitors, and eighty dollars (\$80) for visits  
40 that include the inmate and four or more visitors.



1     (j) Any compensatory or punitive damages awarded by trial or  
2 settlement to any inmate or parolee in connection with a civil  
3 action brought against any federal, state, or local jail, prison, or  
4 correctional facility, or any official or agent thereof, shall be paid  
5 directly, after payment of reasonable attorney's fees and litigation  
6 costs approved by the court, to satisfy any outstanding restitution  
7 orders or restitution fines against that person. The balance of any  
8 award shall be forwarded to the payee after full payment of all  
9 outstanding restitution orders and restitution fines, subject to  
10 subdivisions (c) and (f). The Department of Corrections shall make  
11 all reasonable efforts to notify the victims of the crime for which  
12 that person was convicted concerning the pending payment of any  
13 compensatory or punitive damages.

14     (k) (1) Amounts transferred to the California Victim  
15 Compensation and Government Claims Board for payment of  
16 direct orders of restitution shall be paid to the victim within 60 days  
17 from the date the restitution revenues are received by the  
18 California Victim Compensation and Government Claims Board.  
19 If the restitution payment to a victim is less than fifty dollars (\$50),  
20 then payment need not be forwarded to that victim until the  
21 payment reaches fifty dollars (\$50) or until 180 days from the date  
22 the first payment is received, whichever occurs sooner.

23     (2) In any case in which a victim cannot be located, the  
24 restitution revenues received by the California Victim  
25 Compensation and Government Claims Board on behalf of the  
26 victim shall be held in trust in the Restitution Fund until the end  
27 of the state fiscal year subsequent to the state fiscal year in which  
28 the funds were deposited or until the time that the victim has  
29 provided current address information, whichever occurs sooner.  
30 Amounts remaining in trust at the end of the specified period of  
31 time shall revert to the Restitution Fund.

32     (3) Any victim failing to provide a current address within the  
33 period of time specified in paragraph (2) may provide  
34 documentation to the Department of Corrections, which in turn  
35 shall verify that moneys were in fact collected on behalf of the  
36 victim. Upon receipt of that verified information from the  
37 Department of Corrections, the California Victim Compensation  
38 and Government Claims Board shall transmit the restitution  
39 revenues to the victim in accordance with the provisions of  
40 subdivision (b).

(1) This section shall become operative on July 1, 2008.

SEC. 7. Section 2.1 of this bill incorporates amendments to Section 1202.4 of the Penal Code proposed by both this bill and AB 1760. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2004, (2) each bill amends Section 1202.4 of the Penal Code, and (3) this bill is enacted after AB 1760, in which case Section 1202.4 of the Penal Code as amended by Section 8 of AB 1760, shall remain operative only until the operative date of this bill, at which time Section 2.1 of this bill shall become operative, and Section 2 of this bill shall not become operative.

SEC. 7.1. Section 2.2 of this bill incorporates changes in Section 1202.4 of the Penal Code proposed by both Section 9 of AB 1760 and this bill, to become operative on January 1, 2007. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2004, (2) this bill amends, and AB 1760 amends, repeals, and adds Section 1202.4 of the Penal Code, and (3) this bill is enacted after AB 1760, in which case Section 1202.4 of the Penal Code as amended by Section 8 of AB 1760, shall remain operative only until the operative date of this bill, at which time Section 2.1 of this bill shall become operative until January 1, 2007, at which time Section 2.2 of this bill shall become operative, Section 2 of this bill shall not become operative, and Section 1202.4 as added by Section 9 and 9.1 of AB 1760 shall not become operative.

SEC. 8. Section 6.1 of this bill incorporates amendments to Section 2085.5 of the Penal Code proposed by both this bill and AB 1760. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2004, (2) each bill amends Section 2085.5 of the Penal Code, and (3) this bill is enacted after AB 1760, in which case Section 2085.5 of the Penal Code as amended by Section 10 of AB 1760, shall remain operative only until the operative date of this bill, at which time Section 6.1 of this bill shall become operative, and Section 6 of this bill shall not become operative.

SEC. 8.1. Section 6.2 of this bill incorporates changes in Section 2085.5 of the Penal Code proposed by both Section 11 of AB 1760 and this bill, to become operative on July 1, 2008. It shall only become operative if (1) both bills are enacted and become effective on or before January 1, 2004, (2) this bill amends, and AB

1 1760 amends, repeals, and adds Section 2085.5 of the Penal Code,  
2 and (3) this bill is enacted after AB 1760, in which case Section  
3 2085.5 of the Penal Code as amended by Section 10 of AB 1760,  
4 shall remain operative only until the operative date of this bill, at  
5 which time Section 6.1 of this bill shall become operative until July  
6 1, 2008, at which time Section 6.2 of this bill shall become  
7 operative, Section 6 of this bill shall not become operative, and  
8 Section 2085.5, as added by Section 11 and Section 11.1 of AB  
9 1760 shall not become operative.

10 SEC. 9. No reimbursement is required by this act pursuant to  
11 Section 6 of Article XIII B of the California Constitution because  
12 the only costs that may be incurred by a local agency or school  
13 district will be incurred because this act creates a new crime or  
14 infraction, eliminates a crime or infraction, or changes the penalty  
15 for a crime or infraction, within the meaning of Section 17556 of  
16 the Government Code, or changes the definition of a crime within  
17 the meaning of Section 6 of Article XIII B of the California  
18 Constitution.

19 ~~SEC. 8.~~

20 SEC. 10. This act is an urgency statute necessary for the  
21 immediate preservation of the public peace, health, or safety  
22 within the meaning of Article IV of the Constitution and shall go  
23 into immediate effect. The facts constituting the necessity are:

24 In order to effectuate the collection of revenue for the  
25 Restitution Fund and to pay claims submitted by victims of crime  
26 to end their financial hardship as soon as possible, it is necessary  
27 for this act to take immediate effect.

28 \_\_\_\_\_

29 CORRECTIONS

30 Amended Date — Line 1.

31 \_\_\_\_\_

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